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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/776,503

02/02/2001

Dale Blackson

D-1132 R

9612

28995

7590

02/26/2008

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EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/776,503	<b>Applicant(s)</b> BLACKSON ET AL.	
	<b>Examiner</b> JAGDISH PATEL	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5, 8-54 and 56-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6, 49, 50, 56-67, 71, 72, 74-81, 85 and 86 is/are allowed.
- 6) ☐ Claim(s) 10, 8-29, 31-36, 39, 42, 44, 46, 48, 53, 84, 37-38, 40-41, 43, 73 and 89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This communication is in response to amendment filed 11/28/07.

#### ***Response to Amendment***

2. Claims 3, 6, 10, 13-15, 22, 24, 35, 37, 39, 43, 51-52, 58, 60-66, 73, 76, 82, have been amended as per amendment request. New claims 87-90 have been added.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims have been fully considered. Accordingly, independent claims 3, 6, 85 and 86 have been allowed. However, the examiner has noted that independent claims 10, 37, 43 and 73 are indefinite under 35 USC 112 (second) as discussed in the following section.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3693

4. Claims 10, 8-29, 31-36, 39, 42, 44,46,48, 53, 84, 37-38, 40-41, 43, 73 and 89 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 10, 8-29, 31-36, 39, 42, 44, 46, 48, 53, 84, rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01.

6. Claim 10 recites at least one user input device which is operable to receive account identifying input. However, the output device only responds to “at least one digital content delivery fee authorization” input to the at least one user input device. There is no reference to this functionality in the claim. In other words, the input device does not function to receive (i) selection of a digital content to be delivered via the output device and (ii) selection of the delivery fee authorization for the selected digital content. (refer to specification p. 12 L 15-17 for this functionality of the input device.)

7. The specification teaches an ATM (which is a type of automatic transaction machine, see p. 2, L 10-18). The specification in Figure 1 describes a functional ATM as having a computer processor 12 which coordinates various functions including dispensing cash as well as digital content (see at least p. 10 L 18-22). It is apparent from the specification that without a present of the processor other components including those included in the transaction machine of the instant claim cannot perform their respective functions. For example, input device 16 and output device 18 and cash dispenser 24 cannot function without their links to the computer processor 12.

Art Unit: 3693

8. The examiner asserts that the claimed invention is indefinite and not operable as a whole because the respective structural elements cannot function without the computer processor.

9. The foregoing analysis also applies to dependent claims 8-22 which depend on claim 10.

10. Claim 23 is indefinite because it fails to functionality link the elements of the automatic transaction machine of claim 10. For example, the claim fails to specify any structural relationship of the "at least one network" and "at least one remote computer" connected to the network to the input device, the cash dispenser and the output device functionally described in claim 10.

11. Dependent claims 8-29, 31-36, 39, 42, 44-46, 47-48, 53 and 84 rejected for the same reasons as independent claim 10.

12. Independent claim 37 is rejected on similar grounds as claim 10. Claim 37 recites at least one input device and at least output device. However, without a processor that is linked to the input device and the output device, the functionality of the output device as recited cannot be realized. Dependent claims 38,40,41 and 42 are also rejected for the same ground of rejection.

13. Claim 43 is rejected on similar grounds of rejection as claim 37.

14. Claim 73 is rejected as being indefinite and unclear as explained below.

Claim 73 recites the step of receiving at least one account identifying input at the input device of an automated transaction machine located in an establishment. (step (a)). Claim then specified at step (d) that "an account associated with the establishment" is charged for the delivery of the content. However, there is no recitation of where the machine received the account associated with the establishment. Furthermore, step (a) allows receiving account identifying input regardless of the location of the establishment.

15. Dependent claim 89 is also rejected for the same reasons.

***Allowable Subject Matter***

16. Claims 2-6 are allowed.
17. Process claim 60 and dependent claim 87 are allowed.
18. Process claim 58 and dependent claims 56-57, 59, 61-65, 67, 71-72, 74,75, 77,79-81 are allowed.
19. Claims 66 and 88 are allowed.
20. Claims 76 and 90 are allowed.
21. Claims 85 and 49 are allowed.
22. Claims 86, 50 and 78 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

The examiner can normally be reached on 800AM-630PM Mon-Tue and Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JAGDISH PATEL/

Primary Examiner, Art Unit 3693

2/19/08